

Massachusetts Department of Telecommunications and Energy

Inquiry to Investigate the Use of the New England)
Generation Information System.) Docket No. 03-62
Additional Comments Related to Disclosure)
Label Included.)

JOINT COMMENTS OF THE MASSACHUSETTS ENERGY CONSUMERS ALLIANCE, THE CLEAN WATER FUND, AND THE MASSACHUSETTS PUBLIC INTEREST RESEARCH GROUP

The Massachusetts Energy Consumers Alliance (Mass Energy), the Clean Water Fund, and the Massachusetts Public Interest Research Group file these comments on issues addressed by the above-mentioned docket. In addition to stating our position on the use of the New England Generation Information System (NE-GIS), these comments also address broader concerns related to the format and content of the electricity disclosure label.

We would first like to make it clear that we believe the electricity disclosure label is an essential customer education tool and that it is critical for the label to be mailed to customers on a quarterly basis at a minimum. Only if customers are made aware of the sources and environmental impacts of their electricity will they understand the rationale for choosing a product with a more positive environmental profile. Given the current low level of customer awareness about the link between electricity generation and environmental and health impacts, we believe it is essential for customers to receive periodic updates containing this information, regardless of whether they have declared themselves to be “in the market” for choosing a green product.

I. Comments on the Use of NE-GIS for Disclosure Labels

We concur with the Department's position that use of the certificate-based NE-GIS for the creation of disclosure labels would provide many benefits. It would benefit suppliers and regulators by providing an efficient means for demonstrating and monitoring product content and compliance with various regulatory requirements. It will also benefit consumers by enabling the disclosure label to be formatted in a more user-friendly fashion. Therefore, we believe that the NE-GIS data should be used as the primary basis for fuel source, labor and air emissions information included on disclosure labels.¹ Conditions under which data other than that provide through NE-GIS should be used as the basis for the above information, are 1) if a pollutant or other category that is not currently included on NE-GIS certificates (i.e. radioactive waste and mercury) is added to the list of information that should appear on the disclosure label; 2) for the purposes of facilitating the netting of CO₂ emissions for biomass projects prior to the point at which the NE-GIS is able to accommodate that process; or 3) if the Massachusetts Department of Environmental Protection believes that emissions data available through NE-GIS is inaccurate.

We believe that the NE-GIS system should be used as the source of disclosure information as soon as such a transition can be implemented. We recognize that some suppliers have already used NE-GIS data from the first quarter of 2003 to formulate previous disclosure labels, and that the Department's order on this matter may not be issued prior to the opening of the NE-GIS certificate trading period for the first quarter of 2003. Therefore, we believe that the earliest

practical transition schedule would require the use of NE-GIS data from the second quarter of 2003. This data should be available in a report to suppliers on, or around December 20, 2003. We believe that suppliers should update their disclosure labels using second quarter, 2003 NE-GIS data during the month following the availability of the report, and that labels should continue to be updated quarterly during the month following the availability of each NE-GIS report.

We believe that, during the period of transition to the use of the NE-GIS, it is appropriate for product disclosure labels to be based on less than twelve months of data. In addition, for new products, we believe it is appropriate to use prospective data for the disclosure label until actual data is made available through a NE-GIS report (approximately eight months after product launch). Once actual data is available from a NE-GIS report, we believe it is appropriate for most products to base their labels on the most recently available NE-GIS report, such that the first NE-GIS-based disclosure label would be based on three months of actual data, the second would be based on six months of actual data, and so on until twelve months of data is available.

However, we believe an exception should be made for “green products,” those being marketing for their environmental attributes. Since renewable energy resources are highly seasonal in their production, the first few quarters of actual data on a disclosure label may be significantly different than marketing claims, and may result in unnecessary customer confusion. For suppliers selling products which meet certain conditions described below, we believe that the Department should allow the use of prospective data as the basis for disclosure labels until a full

¹ We recognize that there is some concern that emissions data available through NE-GIS will not be complete since generators are not required to report such information. However, we believe that the alternative means of acquiring

twelve months of actual NE-GIS data is available for the product. Once twelve months of NE-GIS data is available (approximately seventeen months following product launch), the supplier would be required to update the product disclosure label quarterly using the most recent twelve months of GIS data for the product.

We believe that this flexibility is appropriate for marketers offering green products, as it will reduce customer confusion, thus helping to facilitate the sale of environmentally-preferable electricity products. Furthermore, given that the timing of the NE-GIS system would cause any new product's disclosure label to be based on prospective data for the first eight months after its launch, we believe that an additional period of basing the label on prospective data is reasonable for products that meet certain conditions. We propose that products eligible to receive such treatment should: 1) include greater than fifty-percent renewable energy content; and 2) be certified by a Department-approved third-party entity, such as the non-profit Center for Resource Solutions (responsible for the "Green-e" certification program).²

The Center for Resource Solution's Green-e certification program was developed through a nation-wide stakeholder process and is recognized nationally as a standard for quality among green electricity products. Furthermore, suppliers selling Green-e certified products must sign on to the Green-e code of conduct which stipulates strict standards for fulfilling marketing claims and ensuring product integrity. Green-e certified products also undergo an annual audit in which a third-party auditor verifies that the renewable energy purchases by the supplier are consistent with marketing claims. We believe that such certification, coupled with an annual DTE

data, outlined in NE-GIS operating rule 2.3, will sufficiently satisfy the data requirements.

reporting process, will provide an adequate screen to ensure that green suppliers do not abuse the ability to use prospective data for disclosure labels during the first eighteen months of product sales.

II. Comments on Other Disclosure Label-Related Issues

A. Treatment of Imports

We believe that NE-GIS certificates that are linked to power coming from generators in adjacent power control areas should be recognized by source on the electricity disclosure label. However, we believe that the state or province in which the generator is located should also be identified so that customers wishing to support New England-based resources (for economic or other reasons) will be able to do so. For example, if a portion of a product's wind content originated in New York, there could be an asterisk next to "wind" with a note stating, "fifteen percent of the wind included in this product was generated in New York."

B. Distinction Between "Known Resources" and "System Power"

Once the NE-GIS is used as the basis for the disclosure label, it will no longer be necessary to make the distinction between "known resources" and "system power" on the disclosure label.

Power sources should be easily identifiable based on the information included on NE-GIS certificates held in each supplier's portfolio, including "residual mix" certificates. Therefore, the

² The Green-e program's template disclosure label prescribes the use of prospective information since that format is deemed most appropriate for green products containing substantial percentages of renewable content.

“power sources” section on each label should simply display the breakdown of resources, preferably in the form of a pie graph.

C. Identification of “Green” Products

We believe that products for which renewable energy resources comprise greater than fifty-percent of the mix of resources, and which are certified by a DTE-approved third-party certification body should be recognized as “green” on their disclosure label.³ As explained above, we believe that the non-profit Center for Resource Solutions’ Green-e certification program should qualify as a DTE-approved certification body. By recognizing certain products as “green” on their label, it will help customers identify those products with the lowest environmental impacts during their “shopping” period, and will remind them of the value of their selection each time they receive their quarterly disclosure label in the future.

D. Air Emissions and Environmental Impacts

a. Change “Air Emissions” to “Environmental Impacts”

We believe that the section of the disclosure label that is currently titled “air emissions” should be changed to be titled “environmental impacts.” We believe that the list of environmental impacts highlighted on the label should include carbon dioxide, nitrogen

³ In order to comply with the National Association of Attorneys General “Environmental Marketing Guidelines for Electricity,” the disclosure label would need to include a brief definition of “green.”

oxides, sulfur dioxide, radioactive waste, and mercury as these are the impacts that are most quantifiable.

While radioactive waste is not currently listed, we believe it should be added because nuclear power comprises such a significant portion of the region's electricity mix, and the environmental impacts of this power source are not currently captured by the list of air emissions. Radioactive waste is not currently tracked on NE-GIS certificates. However, methods for measuring such waste are well-developed. States such as Illinois, Ohio and Oregon already include radioactive waste on their disclosure labels.

Similarly, mercury emissions are not currently captured on NE-GIS certificates. However, mercury emissions from power plants, even in extremely small quantities, are responsible for some of the most harmful health impacts resulting from power generation from coal and waste-to-energy plants. The neurological damage resulting from mercury intake is well-proven and awareness around this issue is increasing.⁴ We believe that electricity consumers have a right to know whether this harmful pollutant is one of the impacts of their electricity resource mix. While mercury is not included on NE-GIS certificates, the pollutant is measurable using current technology and it is currently being measured by mercury producing plants.⁵

⁴ For example, women are being advised to limit their consumption of fish due to mercury contamination.

⁵ Coal-fired power plants that are subject to the Commonwealth's "Filthy Five" regulations are required to measure mercury emissions, and to our knowledge, waste-to-energy plants are required to measure mercury emissions as well.

b. Allow CO₂ netting for Landfill Gas Projects Immediately, and for Wood and Wood-Waste Fueled Biomass Projects Once a Standard is Developed

As a general matter, we believe that the Massachusetts electricity disclosure label should account for net CO₂ emissions of LFG and wood and wood waste-fueled biomass projects. In the case of landfill gas facilities, EPA and other scientific data indicate that there are no circumstances under which electricity generation from landfill gas results in a net increase in CO₂ emissions compared to an alternative scenario. Therefore, we believe that disclosure labels should immediately report zero CO₂ emissions for landfill gas projects. In the case of wood and wood waste-fueled biomass projects, the Department should seek to develop standard “net” or “incremental” emission rates for wood- and wood waste-fueled biomass facilities according to the guidelines we describe above.⁶

We recommend that the Department issue disclosure rules for net CO₂ emissions from biomass facilities that do not rely on the NE-GIS only, but encourage use of the NE-GIS once it accommodates such treatment. In the event that the NE-GIS does not accommodate such treatment, the Department should allow for adjustments to NE-GIS data for the purposes of disclosure label reporting. We believe that reporting net CO₂ for such generators is entirely consistent with the purpose of the information disclosure label: to provide essential information to consumers so that they can more accurately understand the impacts of their energy sources and make informed energy decisions.

c. Use of Units to Express Emissions Data

Furthermore, we believe that output-based units (i.e. pounds per MWh) should be identified for each environmental impact, and that a more appropriate visual representation of impacts should be used (see attached sample labels). We believe that “regional average” and “new unit” data are still appropriate comparison points for a particular product’s environmental characteristics. However, the Department should regularly provide suppliers with updated information so that these comparisons will remain relevant.

E. Format of Labels

We request that the Department review the attached sample disclosure labels for ideas regarding how to adjust the format of the label. As described above, we believe that “air emissions” should be broadened to “environmental impacts” and that radioactive waste and mercury should be included in the list of impacts. Finally, we suggest that for all products other than standard offer and default service, a comparison to default service label characteristics should be provided.

F. Availability and Distribution of Labels

Given the critical role that disclosure labels play in educating consumers about the environmental implications of their power choices, and in facilitating informed choices by consumers, we believe that the labels should continue to be mailed to customers quarterly. In

⁶ Mass Energy, in collaboration with the Union of Concerned Scientists, proposed a set of guidelines for CO₂ netting of wood and wood-waste biomass fueled projects in comments to the Maine Public Utilities Commission regarding

addition, we urge the Department and the Division of Energy Resources to work together to develop an easy-to-find web-based comparison table of all available products with links to each supplier. All suppliers, including DISCOs, should also be required to make their disclosure labels easily accessible on their websites, and to provide links to the state-wide table of available products.

G. Use NE-GIS “Reserve Certificates”

We believe that green power marketers should have the ability to use NE-GIS Reserve Certificates to comprise a portion of their disclosure label in order to help overcome the seasonality constraints of many renewable energy resources. We recommend that the use of NE-GIS Reserve Certificates be limited to those marketers selling products that are certified as “green” by a Department-approved entity such as the Center for Resource Solutions, and that marketers could only use reserve certificates to match up to twenty-five percent of their load obligation in a given twelve month period.

III. Conclusion

In summary, we would like to stress the importance of the disclosure label as an educational tool for consumers. We believe that a transition to use of the NE-GIS system as the primary basis for disclosure label information is appropriate, and should be implemented as soon as possible.

its inquiry into this issue in January, 2003. Those comments are available upon request.

Disclosure labels should be updated quarterly, and appropriate flexibility should be provided to “green” products.

With regard to broader disclosure-related issues, we believe that information should be more clearly displayed, and that additional (radioactive waste and mercury) and more accurate (CO₂ netting for biomass) information should be used to help consumers make informed decisions about their power choices. In addition, we believe that limited use of “Reserve Certificates” should be granted under certain conditions to help facilitate the sale of products with large percentages of seasonal renewable energy resources.

We thank the Department for considering these comments. We would be happy to further discuss any issues we have addressed, and would be available for any stakeholder process which the Department might undertake to refine the standard format of the disclosure label.

Attachments

A: Sample disclosure label from Illinois (obtained from

www.bricker.com/LegalServices/Practice/Utilities/EMR/retaildisclosure.asp, 7/1/03)

B: Sample disclosure label from Oregon (obtained from Renewable Northwest Project)

C: Sample disclosure label from Ohio (obtained from

www.bricker.com/LegalServices/Practice/Utilities/EMR/retaildisclosure.asp, 7/1/03)

D: Draft standardized label for Electricity Disclosure. Oko-Institut/Ed Holt & Associates,

“Electricity Disclosure: Status and Perspectives,” May, 2002.

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